

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Application of)
MOLOKAI PUBLIC UTILITIES, INC.)
For Review and Approval of Rate)
Increases, Revised Rate Schedules,)
and Revised Rules.)

DOCKET NO. 2009-0048

PREHEARING CONFERENCE ORDER

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The commission issues this Prehearing Conference Order as a result of the prehearing conference held on April 27, 2010, in preparation for the evidentiary hearing scheduled to commence on May 11, 2010.¹

I.

Background

On November 6, 2009, the commission approved, with certain modifications, the Stipulated Procedural Order proposed by a majority of the Parties to govern the evidentiary hearing

¹The "Parties" in this proceeding are MOLOKAI PUBLIC UTILITIES, INC. ("MPU"), MOLOKAI PROPERTIES LIMITED ("MPL"), the COUNTY OF MAUI ("County"), WEST MOLOKAI ASSOCIATION ("WMA"), and the DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS, DIVISION OF CONSUMER ADVOCACY ("Consumer Advocate"), an ex officio party, pursuant to Hawaii Revised Statutes § 269-51 and Hawaii Administrative Rules ("HAR") § 6-61-62(a).

phase of this proceeding.² On April 27, 2010, a prehearing conference was held as scheduled.³

II.

Discussion

The terms and provisions of the commission's Procedural Order are incorporated by reference herein, to the extent applicable. The issues governing this proceeding, as agreed-upon by the Parties, are set forth in the Notice of Evidentiary Hearing, dated March 8, 2010.

Consistent with the agreements reached and actions taken at the prehearing conference, unless modified otherwise by the commission, the following terms shall control the evidentiary hearing and the remaining course of this proceeding:

1. The following pre-evidentiary hearing deadline dates were established:

April 28, 2010

MPU's updated information on the Molokai Irrigation System.

April 29, 2010

(A) MPU's letter describing the status of the Parties' mediation efforts; and (B) pre-evidentiary hearing motions based on the existing

²Order Approving Proposed Procedural Order, as Modified, filed on November 6, 2009 ("Procedural Order").

³Chairman Carlito P. Caliboso presided over the prehearing conference, which was also attended by Commissioners John E. Cole and Leslie H. Kondo. The Parties were represented by the following representatives: (1) Yvonne Y. Izu, Esq., for MPU; (2) James J. Bickerton, Esq., for MPL; (3) Margery S. Bronster, Esq., and Jeannette H. Castagnetti, Esq., for the County; (4) William W. Milks, Esq., for WMA; and (5) Dean Nishina and Jon S. Itomura, Esq., for the Consumer Advocate.

docket record, including any motion requesting the issuance of subpoenas to require the attendance of two MPL witnesses at the evidentiary hearing. Pre-evidentiary hearing motions shall be served on the other parties by hand-delivery.

May 4, 2010

Parties' responses to the motion seeking the issuance of subpoenas.

May 6, 2010

(A) MPU's updated metering information, to the extent that such information is available; and
(B) Parties' responses to any other pre-evidentiary motion filed on April 29, 2010 and served by hand-delivery on the same date. (See HAR §§ 6-61-22 and 6-61-41(c).)

2. Opening statements shall be limited to five minutes per party. The order of opening statements will be as follows: (A) MPU; (B) Consumer Advocate; (C) WMA; (D) MPL; and (E) the County.

3. A total of five witnesses submitted written testimonies. All five witnesses will appear and testify at the evidentiary hearing, and will be available for cross-examination. WMA's two Molokai-based witnesses, Messrs. Lyle Dunham and Robert Marusich, will be taken out-of-order and testify on the morning of May 12, 2010. In addition to the five witnesses, MPU will have Mr. Peter Nicholas available to testify as a witness. While Mr. Nicholas did not submit any written testimony, he sponsored certain of MPU's responses to information requests.

4. Subject to the accommodation of WMA's two Molokai-based witnesses, above, the order of the Parties' presentation of witnesses will be as follows: (A) MPU; (B) Consumer Advocate;

(C) WMA; and (D) MPU (rebuttal). (No written testimonies were submitted by MPL or the County.)

The order of cross-examination of witnesses will be as follows: (A) MPU; (B) Consumer Advocate; (C) WMA; (D) MPL; and (E) the County.

5. Closing arguments shall be limited to ten minutes per party. The order of closing arguments will be as follows: (A) MPU; (B) Consumer Advocate; (C) WMA; (D) MPL; and (E) the County.

6. The Parties' hearing exhibits shall be pre-marked, as applicable (example: MPU Hearing Exhibit ____). WMA will work with the other parties in attempting to reach a consensus on the association's plan to present summary handouts as part of its direct case.

7. Paragraph 18 of the Commission's Amended Protective Order, filed on December 11, 2009 ("Amended Protective Order"), provides that at a commission hearing where information designated as confidential is discussed, such hearing "shall be held in camera, or under other conditions imposed by the Commission to prevent unnecessary public disclosure of such information." The commission's preference is to not close any portion of the evidentiary hearing. Instead, the Parties shall use their best efforts to present their cases without disclosing or referring to information designated as confidential.

8. The County will discuss with MPU re-designating certain confidential information as non-confidential pursuant to the terms of the Amended Protective Order.

9. Simultaneous post-hearing briefs will be due "3 weeks" (meaning twenty-one (21) calendar days) after notice that the hearing transcripts are completed and available is issued by the commission.

III.

Order

THE COMMISSION ORDERS:

The terms set forth in this Prehearing Conference Order shall control the evidentiary hearing and the remainder of this proceeding, unless modified or ordered otherwise by the commission.

DONE at Honolulu, Hawaii APR 28 2010.

PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By Carlito P. Caliboso
Carlito P. Caliboso, Chairman

By John E. Cole
John E. Cole, Commissioner

APPROVED AS TO FORM:

[Signature]
By
Leslie H. Kondo, Commissioner

Michael Azama
Michael Azama
Commission Counsel

2009-0048.cp

CERTIFICATE OF SERVICE

The foregoing order was served on the date of filing by mail, postage prepaid, and properly addressed to the following parties:

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